

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3267/1dn
MDK:.....

Myra Shelton:

Please review this bill, which is based on your instructions dated February 28, 2000, very carefully, to make sure that it achieves your intent. In particular, please note the following:

1. Please review the membership of the cemetery board. The number of members, and other characteristics, are based on the auctioneer board. Also note that the cemetery board has investigation and enforcement authority, but no rule-making authority, regarding subch. II of ch. 157 or subch. VIII of ch. 440, stats. Is this okay?

2. Do you want to allow the cemetery board to audit or otherwise have access to records under subch. II of ch. 157, stats.? As drafted, the bill only allows DORL to audit records under that subchapter. Note, however, that the auctioneers board and DORL both have the right to inspect and copy records under s. 480.18 (3), stats. Also, although I was unsure about your intent, the bill does allow both DORL and the cemetery board to have access to certain records under the proposed amendment of s. 440.947 (5), stats. Is this okay?

3. On another point regarding the division of labor between the cemetery board and DORL, note that DORL, and *not* the cemetery board, may do each of the following: 1) request a district attorney to bring an action to recover certain money or property under s. 157.11 (9m), stats.; 2) approve or object to certain transactions under s. 157.08 (2), stats.; and 3) approve certain changes regarding preneed trust funds under s. 157.19, stats. Is this okay?

4. Although it is not specified in the instructions, the bill amends the definition of "burial" in proposed s. 157.061 (1c), stats., in a manner that I think is consistent with your intent. (The term has the same definition in LRB-4285/1, but does not include the reference to "cinerarium".)

5. Please check the bill's amendment of "undeveloped space" in s. 157.061 (17), stats. Is it okay, or should it refer a burial space and delete the references to mausoleum space, columbarium space and lawn crypt?

6. Due to time constraints, I cannot at this time provide an answer regarding your question about the reference to s. 852.03 (2), 1995 stats., in s. 157.061 (7), stats. Note, however, that the kinship table that was repealed in 1997 is still published in the statutes because other statutes, in addition to s. 157.061 (7), stats., continue to refer to the table.

7. The bill retains, but amends, the definition of “wholesale cost ratio” in s. 440.90 (14), stats., because the term is used in reference to constructing undeveloped space in s. 440.92 (3) (a) 1., stats. Is this okay?

8. There appears to be a typo in item 13 of section 2 of the instructions. Therefore, I am not sure what to do about s. 445.125 (1) (a) 1., stats. This bill does **not** amend that provision, nor does it create s. 445.125 (1) (a) 1m. Is this okay?

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: Mark.Kunkel@legis.state.wi.us